

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY CARNEY,

Plaintiff,

Case No. 1:09-CV-598

v.

Hon. Gordon J. Quist

DAN JOHNSON, et al.,

Defendants.

ORDER APPROVING
REPORT AND RECOMMENDATION

The Court has before it Plaintiff's Objections to the magistrate judge's Report and Recommendation filed June 14, 2010. In her Report and Recommendation, Magistrate Judge Carmody recommended that Defendant Sweet-Brown's motion to dismiss be granted in part and denied in part. In particular, the magistrate judge concluded that service on Defendant Sweet-Brown was defective and recommended that the motion be granted to the extent the defective service should be quashed. The magistrate judge concluded that the motion should be denied with regard to Defendant's request that the case be dismissed. Instead the magistrate judge recommended that Plaintiff be given until August 16, 2010, to properly effect service on Defendant and that the Clerk arrange for service on Defendant by certified mail with delivery restricted to Defendant.

Having conducted a *de novo* review of the Report and Recommendation and Plaintiff's Objections, the Court concludes that the Report and Recommendation should be adopted.

Plaintiff contends that the Report and Recommendation should be adopted because he has a motion pending before the magistrate judge to obtain Defendant Sweet-Brown's home address and to have

service made on her at her home address. The Court concludes that it is unnecessary to serve Defendant Sweet-Brown at her home address. In her report and recommendation, the magistrate judge identified an adequate means of service – sending the summons and complaint to Defendant Sweet-Brown by certified mail, return receipt requested, with delivery restricted to Defendant Sweet-Brown. Thus, Plaintiff's Objections are without merit.

Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation of the Magistrate Judge filed June 14, 2010, is approved and adopted as the opinion of the Court, and Plaintiff's Objections (docket no. 39) are **OVERRULED**.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (docket no. 12) is **GRANTED IN PART AND DENIED IN PART**. The motion is **granted** to the extent that service of process on Defendant is **quashed** based upon improper service of process, but **denied** with regard to Defendant's request that Plaintiff's claims be dismissed.

IT IS FURTHER ORDERED that the Clerk shall arrange for service of a summons and a copy of Plaintiff's complaint against Defendant by certified mail, with delivery restricted to Defendant. Plaintiff shall have until **August 16, 2010**, to properly effect service on Defendant.

Dated: July 9, 2010

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE